



February 15, 2001

HOUSE BILL No. 1967

DIGEST OF HB 1967 (Updated February 14, 2001 11:24 AM - DI 69)

Citations Affected: IC 13-25; IC 36-8.

Synopsis: Fire department hazardous material costs. Requires a responsible party, when charged for the expenses, to reimburse a fire department that employs both full-time paid members and volunteer members or only full-time paid members for all expenses incurred by the fire department in taking emergency action with respect to containment, control, and cleanup of hazardous materials. Provides that a court action to collect a reimbursement may be brought either in: (1) the county in which the hazardous materials emergency arose; or (2) the county in which the fire department is located. Provides that if a fire department imposes a charge on a person for these expenses, the charge must be based on the state fire marshal's schedule of service charges. Establishes the permissible uses of money collected. Provides a penalty for failure of the responsible party to pay the charges when due.

Effective: Upon passage.

**Herrell, Stevenson, Adams T,
Mellinger, Whetstone, Kruse,
Tincher**

January 17, 2001, read first time and referred to Committee on Environmental Affairs.
February 14, 2001, amended, reported — Do Pass.

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February 15, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1967

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-25-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a)
3 Reimbursement is available under this chapter for expenses, **except for**
4 **expenses of a type that the agency normally incurs in responding**
5 **to emergencies that do not involve hazardous materials**, that are
6 incurred in taking emergency action by ~~the~~ **an** emergency response
7 agency in taking the emergency action, except for expenses of a type
8 that the agency normally incurs in responding to emergencies that do
9 not involve hazardous materials **other than a fire department that is**
10 **described in subsection (b).**
11 (b) Reimbursement is available under this chapter and
12 IC 36-8-12.2 for expenses that are incurred in taking emergency
13 action by a fire department that:
14 (1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and
15 (2) employs:
16 (A) both full-time paid members and volunteer members;
17 or

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(B) only full-time paid members.

SECTION 2. IC 13-25-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. An emergency response agency or a governmental entity may obtain reimbursement under this chapter by filing an action for reimbursement in a court of general jurisdiction of:

(1) a county in which a hazardous materials emergency arose; or

(2) the county in which the unit that established the fire department is located, if the emergency response agency is a fire department that:

(A) is established by a unit under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and

(B) employs:

(i) both full-time paid members and volunteer members; or

(ii) only full-time paid members.

SECTION 3. IC 36-8-12.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.2. Hazardous Materials Emergency Action Reimbursement

Sec. 1. As used in this chapter, "facility" has the meaning set forth in 327 IAC 2-6.1-4(7), as in effect on January 1, 2001.

Sec. 2. As used in this chapter, "fire department" means a fire department that:

(1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and

(2) employs:

(A) both full-time paid members and volunteer members; or

(B) only full-time paid members.

Sec. 3. As used in this chapter, "hazardous materials emergency" has the meaning set forth in IC 13-11-2-97.

Sec. 4. As used in this chapter, "mode of transportation" has the meaning set forth in 327 IAC 2-6.1-4(10), as in effect on January 1, 2001.

Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in IC 13-11-2-191(d).

Sec. 6. A fire department may impose a charge on a person that is a responsible party with respect to a hazardous materials emergency that:

(1) the fire department responded to;

(2) members of that fire department assisted in containing,



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controlling, or cleaning up;

(3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and

(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.

Sec. 7. A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided, as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(e).

Sec. 8. Money collected under this chapter must be deposited in the general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1) and may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

Sec. 9. (a) A fire department may not bill under this chapter for services provided that duplicate services provided by another governmental entity.

(b) The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency.

Sec. 10. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 13-25-6-5 may recover all costs of the action, including attorney's fees.

Sec. 11. A responsible party is subject to a penalty for failure to pay the full amount of a charge made under this chapter within sixty (60) days after the issuance of the bill for payment by the fire



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1 **department. The amount of the penalty is ten percent (10%) of the**
2 **amount of the charge that remains unpaid on the due date.**
3 **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1967, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "facility" has the meaning set forth in 327 IAC 2-6.1-4(7), as in effect on January 1, 2001."

Page 2, line 22, delete "Sec. 1." and insert "Sec. 2."

Page 2, line 29, delete "Sec. 2." and insert "Sec. 3."

Page 2, between lines 30 and 31, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "mode of transportation" has the meaning set forth in 327 IAC 2-6.1-4(10), as in effect on January 1, 2001."

Page 2, line 31, delete "Sec. 3." and insert "Sec. 5."

Page 2, line 33, delete "Sec. 4." and insert "Sec. 6."

Page 2, line 36, delete "and".

Page 2, line 38, delete "up." and insert "up;"

Page 2, between lines 38 and 39, begin a new line block indented and insert:

"(3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and

(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001."

Page 2, line 39, delete "Sec. 5." and insert "Sec. 7."

Page 2, line 40, delete "must" and insert "may".

Page 2, line 40, after "assistance" insert **"provided, as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(e)."**

Page 2, delete lines 41 through 42.

Page 3, delete lines 1 through 4.

Page 3, line 5, delete "Sec. 6." and insert "Sec. 8."

Page 3, delete lines 18 through 27, begin a new paragraph and insert:

"Sec. 9. (a) A fire department may not bill under this chapter for services provided that duplicate services provided by another

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governmental entity.

(b) The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency."

Page 3, line 28, delete "Sec. 8." and insert "**Sec. 10.**".

Page 3, line 32, delete "Sec. 9." and insert "**Sec. 11.**".

and when so amended that said bill do pass.

(Reference is to HB 1967 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 11, nays 0.

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